IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

Crl.Rev. No.105 of 2007
Date of Decision:- 16.03.2007

Sukha ....Petitioner(s)

through
Mr.S.S.Gill, Advocate

vs.

State of Punjab ....Respondent(s)

through
Mr.B.S.Baath, AAG, Punjab.

***

CORAM:-HON'BLE MR.JUSTICE SURYA KANT.

***

1) Whether Reporters of the local papers may be allowed to see the judgment?
2) To be referred to the Reporters or not?
3) Whether the judgment should be reported in the Digest?

***

SURYA KANT, J.

This revision petition is directed against the order dated January 04, 2007 passed by the learned Special Court, Patiala, whereby it has refused to release the Indica Car owned by the petitioner on Supurdari.

The petitioner is the registered owner of Indica car bearing registration No.DL-4CJ-5482. As per the prosecution case, 1.5 Kg. Opium was recovered from the said car. The petitioner is facing trial in the above-stated case in which after framing of charges, the prosecution evidence is being led.

It is contended by learned counsel for the petitioner that the above-stated vehicle is lying parked in an open space and due to vagaries of weather, its value and utility has already substantially decreased. It is asserted that the aforesaid vehicle was meant and used by the petitioner for

personal use only to which he has now been deprived of.

The petitioner is ready and willing to give an undertaking to the satisfaction of the learned Special Court that he shall neither sell/transfer the said vehicle to any other party nor shall change its present condition. The petitioner is further ready to give an undertaking that the vehicle shall be produced before the learned Special Court as and when required.

It is true that if the final verdict comes against the petitioner, the learned Special Court shall be competent to confiscate the said vehicle in terms of its powers under Section 60 of the N.D.P.S.Act and dispose of the same as a case property in accordance with the procedure laid down under Section 63 of the Act.

However, till the trial is concluded, there appears to be no valid reason to deny possession of the said vehicle to the petitioner as no useful purpose is being served by keeping the vehicle in the police station premises. Somewhat similar view has been taken by the Apex Court in the case of **Sunderbhai Ambalal Desai** vs. **State of Gujarat,** 2003 (1) RCR (Crl.) 380.

Consequently, this revision petition is allowed; the impugned order dated January 04, 2007 passed by the learned Special Court, Patiala is set aside and the Indica car, bearing registration No.DL-4CJ-5482, owned by the petitioner, is directed to be released to him on Supurdari on his executing personal bonds in the sum of Rs.3 lacs with one surety in the like amount and the undertaking to the effect that he will not sell or change the condition of the above-stated vehicle and shall produce it before the learned Special Court as and when required at his own costs. The petitioner shall

further give an undertaking that in future, he will not allow the above-stated car to be used for commission of any offence under the N.D.P.S.Act.

March 16, 2007 **(SURYA KANT)**
poonam **JUDGE**